IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 17.12.2004

C O R A M

THE HONOURABLE Mr.JUSTICE V.KANAGARAJ

Crl.O.P.No.33752 of 2004

Rathinamani .. Petitioner

Vs

1. Home Secretary
   Tamil Nadu Government
   Chennai

2. Director General of Police,
   Tamil Nadu Government,
   Chennai.

3. Director of Elementary Education,
   Tamil Nadu Government,
   Chennai-34. .. Respondents

Petition filed under Section 482 Cr.P.C., praying for the relief as stated therein.

For petitioner ... Mr. K.Mayathevar
For respondents ... Mr.K.Duraiswamy
Public Prosecutor-RR 1 to 5

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O R D E R

This petition is filed under Section 482 Cr.P.C.,praying to direct the respondents to investigate into all police complaints made on 17.9.2004, 2.8.2004 against the 30 rowdy elements along with the complaints made by the petitioner against A.E.O and D.E.E.O.of Dindigul, through "C.B.C.I.D" Police of Tamil Nadu Government and to submit a detailed report before this Court.

2. The case of the petitioner is that she is the Correspondent of a School and Chairman of the Managing Committee of the School in which 242 children are studying; that about 30 anti-social elements have been continuously causing disturbance and preventing the children from attending the school and to snatch away the possession and ownership of the petitioner's school from her control; that

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the petitioner gave a complaint before the Deputy General of Police on 17.9.2004 through her lawyer and also sent a complaint to the Hon'ble Chief Minister to save the school from the rowdy elements; that the Hon'ble Chief Minister's cell had directed the Superintendent of Police, Dindigul to take action against the rowdy elements from entering into the E.V.Salai Elementary School but the Superintendent of Police, Dindigul had not taken any action against the accused; that the said Superintendent of Police has forwarded the same to one Inspector of Police Mr.Veerasamy but the said Veerasamy refused to receive the written statement; that instead he directed the petitioner and her daughters to give a written statement according to his dictates that the petitioner refused to do the same and informed their lawyer; that their lawyer in turn informed the same to the Deputy Superintendent of Police of D.C.B. Mr.Pandarakannan and Superintendent of Police, Dindigul but no action has been taken; that subsequently the recognition of the school was cancelled due to the disturbance and the illegal activities of the anti-social elements.

3. The petitioner would further submit that the Manager of the School one Perumal challenged the cancellation of recognition of the School by filing a writ petition in W.P.No.2196/1970 before the High Court and the same was dismissed and the husband of the petitioner filed a writ appeal in W.A.No.60/1972 and got a favourable order from the High Court for reopening the school; that subsequently a teacher of the school filed a suit for non-payment of salary and attachment order was also passed; that by filing A.S.No.368/1974 the order of attachment was set aside and the petitioner's husband filed W.P.No.66/1972 in which the High Court had ordered the Tamil Nadu Government to sanction appropriate Government aid to the school; that subsequently the school teachers namely K.Ramasamy and Palanichamy committed theft of about 242 transfer certificates of 242 children; that the said two teachers entrusted the said 242 transfer certificates to the opponent schools namely 1) N.S.V.V. Elementary School, Pattiveeranpatti 2) National Elementary School, Ayyampalayam and 3) The Main School, Ayyampalayam at Dindigul District; that the complaint given by the petitioner to the A.E.O and D.E.E.O. Attached to the Educational Department were not taken to consideration; that the anti-social persons number 30 are avoiding the children coming to the petitioner's school.

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4. The petitioner would further specifically allege that on 1.10.2004, 30 accused persons along with others attached the petitioner's school,broke the tables and chairs and had stolen the documents from the bureaus in the school; that the petitioner and her daughters made a complaint to the police but no action was taken so far. The petitioner would further submit that during pendency of this petition, D.E.E.O, Dindigul had transferred four teachers from the petitioner's school namely E.V.V.Salai Elementary School to N.S.V.V. Elementary school at Pattiveeranpatti against the rules and regulations of the General transfer and against the policy of the Tamil Nadu Government, for bribe; that thereby he had caused irreparable loss to the school; D.E.E.O.Murugesan, A.E.E.O Janaki Raman, Palanichamy and Ramasamy already committed the offences punishable under Section 380 IPC and other Sections of IPC as they have had stealthily removed 242 Transfer Certificates of 242 Children from the school without petitioner's consent or permission; that untimely transfer of children from the petitioner's school to another school will badly affecting study of the children also. Hence the petitioner would seek the relief as stated supra.

5.In the additional affidavit filed by the petitioner it is averred that one Murugesan, D.E.E.O. Dindigul has been included in the list of 30 accused as one of the main accused for the atrocities done in the petitioner's school and against Educational Department; that the said Murugesan joined with two other teachers in the petitioner's school namely Mr.Palanichami and Ramasamy and they have jointly ruined the petitioner's school after getting bribe from rival school; that the petitioner state that during the pendency of the Crl.O.P.No.33752/04 before this Court, he had transferred four teachers from the petitioner's school against the rules and regulations of the General Transfer and against the policy of the Tamil Nadu Government; that the petitioner states the above said Murugesan along with 3 others have committed offence punishable under Section 380 I.P.C. by stealthily removing 242 transfer certificates of the petitioner's school and they threatening the petitioner's school students and admitting students from the petitioner's school and that the petitioner states that the said Murugesan and others damaged the school of the petitioner on 8.11.2004.

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6. The respondents have not filed any counter.

7. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) contra and perused the materials placed on record.

8. During arguments, the learned counsel appearing on behalf of the petitioner would reiterate the averments made in the affidavit filed in support of the petition and would further submit that the petitioner is a lady aged about 75 years, she is running the said school from 1982; earlier to that, her husband Pappaiya was running the school from the year 1942; thereafter she is running the school with the assistance of her two daughters; that in this school, there is no hindrance to anybody; that about 30 antisocial elements have been continuously causing disturbances and preventing the children to attend the school with their motive and plan to snatch away the possession and ownership of the school from her control; that on 2.8.2004, the petitioner has sent a detailed complaint to the Hon'ble Chief Minister of Tamil Nadu and the Hon'ble Chief Minister's cell directed the Superintendent of Police, Dindigul to take action against the rowdy elements; that he never had taken any action against the accused; again the petitioner had lodged police complaint through her counsel; that the D.G.P. had instructed the Superintendent of Police, Dindigul to take action on the complaint as requested and extend necessary protection to the petitioner and to the school dated 17.9.2004; that the endorsed complaint had been presented before the Superintendent of Police, Dindigul on 23.9.2004;that the said Superintendent of Police, simply forwarded the complaint to the District Crime Branch Police;that the Deputy Superintendent of Police of District Crime Branch, Dindigul had simply forwarded the same to one Inspector namely Veerasamy; that he called for the petitioner and directed to appear before him on 11.10.2004; that accordingly, the petitioner and other in her family with lawyer appeared before the Inspector of District Crime Branch at 10.30 a.m on 11.10.2004;that the said Inspector called them to give their statements in writing; but the Inspector refused to receive the written statement and directed to write their statement according to his terms and conditions ; that the said Inspector Veerasamy have had received heavy bribe from the opposite party who are highly rich and wealthy persons as they are directly working for the total closure of the school; that the accused persons about 30 numbers by force and threat of life to the 242

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children had taken away all the children from the petitioner's school and kept them inside Muthalamman Koil temple, Murugesan Koil Mandapam from 9.30.a.m to 4.30p.m in all working days; that Ramasamy and Planichamy and other rowdy elements totalling about 30 have had made Tom Tom in the Devarappanpatti Village threatening the public as not to send their children to the petitioner's school;that the petitioner prays this Court to direct to suspend the Superintendent of Police, Deputy Superintendent of Police of District Crime Branch and Inspector of Police, District Crime Branch, Dindigul and also prays this Court to direct the respondents to investigate into all the police complaints made on 17.9.2004 and 2.8.2004 against the 30 rowdy elements along with the complaints made by the petitioner against A.E.O and D.E.E.O of Dindigul, through "C.B.C.I.D" Police of Tamil Nadu Government and to submit the report.

9. Per contra, the learned Public Prosecutor would submit that the said school is running from the year 1942 and the school building is constructed with mud and stone and the school is also in dilapidated condition. After Kumbakonam School incident, circulars were issued to all the school authorities that those old buildings which are in dilapidated condition is danger to the life of the school children and the school building has to be pulled down and new construction should be done. The said circulars were issued to all school authorities. All the complaints, the Deputy Superintendent of Police conducted an enquiry but the petitioner is not co-operating with the enquiry. Hence, the petitioner along with her counsel should appear before the enquiry Officer.

10. In consideration of the facts pleaded, having regard to the materials made available on record and upon hearing the learned counsel for both, this Court is able to assess that there is no denial of the fact that the petitioner has been running the school under the name and style of Eswari Vilas Vidhyasala from the year 1942 of being approved by the Educational Authorities of the Government and initially one A.L.Veeraiya was managing the whole affairs and thereafter the entire administration of the school has been brought under the control of the Managing Committee with the correspondent and Manager one Perumal and there have been some problem in between the Correspondent and some of the teachers and in the melee ultimately granted approval in favour of the school taking many proceedings including the writ proceedings before this Court orders are alleged to have been obtained for and against them and ultimately that the petitioner would come forward to allege that disgruntled two teachers namely K.Veerasamy and Palanichamy acting against the interest of the establishment

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and joining hands with one Murugesan D.E.E.O. and with the Correspondent and Managing Committee of adjacent school N.S.V.V. Elementary School conspiring against the petitioner-school and they have transformed not only the 242 children studying in the school enlisting 30 unruly and antisocial elements living in and around the place wherein the School is located but also they stealthily removed the Transfer Certificates and such other vital documents belonging to the students of the school from out of the possession of the petitioner to the other school ie., N.S.V.V.Elementary School, Pattiveeranpaptti and National Elementary School, Ayyampalayam.

11. It further comes to be seen that the approval granted in favour of the petitioner-school has also been cancelled by the Educational Authorities at the instance of the said Murugesan D.E.E.O. with intent to do harm to the establishment of the petitioner-school and taking bright students from the other school to which the children have been directed to get admitted and therefore on these specific allegations made against the two teachers viz., Ramasamy and Palanichamy and the said Murugesan D.E.E.O who are allegedly joined hands with three anti social elements in the illegal transformation of the students from the school of the petitioner to that of the neighbouring school mentioned supra and since these allegations are specific and tend to become criminal in nature, they have to be thoroughly investigated into so as to take finality of decision.

12. The jurisdiction police since having not dealt with the subject seriously with no effective step having been initiated, and therefore, having lost faith in them the petitioner has sought for a case to be registered in the circumstances of the above criminal O.P. by C.B.C.I.D. Police particularly on the complaint of the petitioner dated 2.8.2004 and 17.9.2004 and to investigate the same so as to file a final report at the earliest and since this request of the petitioner-school being reasonable and on specific and serious allegations, this court is of the view that the same has to be dealt with on registering a case and investigating into it and since the action initiated by the local police officials so far have been proved a futile exercise, it has become incumbent on the part of this Court to issue the following direction.

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In result,

(i) The above Crl.O.P succeeds and stands allowed.

(ii) The Inspector General of Police, C.B.C.I.D is hereby directed to appoint an Officer of outstanding ability and proven integrity to register the case on the complaint of the petitioner-school based on the allegations levelled against the respondents in the above criminal O.P. particularly on her complaint dated 2.8.2004 and 17.9.2004 and thoroughly investigate into the whole affair connected to the school of the petitioner and initiate such legal measures and shall file the final report on merits and in accordance with law at the earliest possible time;

(iii) The local Police are hereby directed to transfer to the C.B.C.I.D. Police, Tamil Nadu Government, all such materials collected and available regarding the case of the petitioner-school within a period of 7 days from the date of receipt of a copy of this order.

ks/sg

Sd/
Asst.Registrar

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Sub Asst.Registrar

Copy to :

1. The Home Secretary
   fort St.George, Secretariat
   Chennai

2. The Inspector General of Police,
   C.B.C.I.D.(Crime Branch)
   Admirality Building, anna Salai, Chennai 600 002.

3. The Director General of Police,
   D.G.P.Office, Dr.Radhakrishnan Salai,
   Chennai-600 004.

4. The Director of Elementary Education,
D.P.I. Compound, College Road
   Chennai-34.

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5. The Superintendnet of Police, dindigul

6. The Deputy superintendent of Police
   District Crime Branch, Dindigul

7. The Public prosecutor, High Court, Madras-600 104.

1 cc to Mr.K.Mayathevar, Advocate Sr.No.55755
1 cc to the Public Prosecutor, High court, Madras
Sr.No.55854

Crl.O.P.NO.33752 of 2004

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